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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,015	07/30/2003	Daniel M. Ritt	50000-0052	7767

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EXAMINER

ALAVI, AMIR

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/630,015	RITT ET AL.	
	Examiner	Art Unit	
	Amir Alavi	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-47 is/are allowed.
- 6) ☒ Claim(s) 48 and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20041214</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

- Claim 49 is objected to because of the following informalities: On line 1, please change, "claim 46", to read, "claim 48".
- Appropriate correction is required.

Claim Rejections - 35 USC § 102

- The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- Claims 48-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaney et al. (USPN 5,926,568).

Regarding claim 48, Chaney et al., disclose: facilitating a positioning of a template image in relation to an object image (please note, column 7, lines 16-20. As indicated a template defined from an initial reference or planning image can be matched to the corresponding object in a subsequent image as a means for determining a transformation matrix which registers the reference and subsequent images); and generating an aligned image from a target image and said object image according to said positioning of said template image in relation to said object image (please note, column 7, lines 20-22. As indicated translation and rotation parameters of the transformation matrix can be used to determine the degree to which the patient and equipment are correctly aligned).

Regarding claim 49, Chaney et al., disclose, wherein said positioning is facilitated by providing controls for said positioning of said reference image in relation to said object image (please note, column 7, lines 22-24. As indicated an operator will proactively correct the error and facilitate correct treatment).

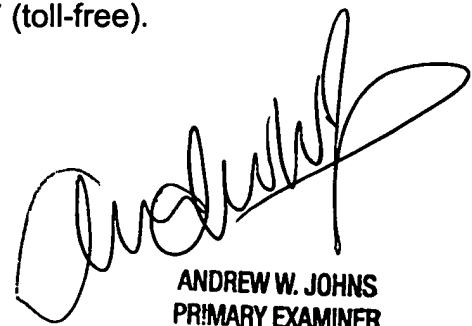
Allowable Subject Matter

- Claims 1-47 are allowed.
- The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 1 and 36, None of the prior art disclose or reasonably suggest wherein, producing an aligned image from a first image, a second image, and a relationship between at least one of a target reference points in said first image and at least one of a template reference points in said second image. Regarding claim 21, None of the prior art disclose or reasonably suggest wherein, a third image created from a first image, a second image, and a relationship between a target reference points and a template reference points and an interface configured to receive input, wherein said input includes an instruction for defining a plurality of target reference points and a command for positioning a geometrical shape in relation to said second image.

Contact Information

- Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amir Alavi whose telephone number is 703-306-5913.
- The examiner can normally be reached on Mon-Thu.. 8:00 am thru 6:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Bhavesh Mehta can be reached on 703-308-5246.
- The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.
- For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AA
Group Art Unit 2621
11 February 2005



ANDREW W. JOHNS
PRIMARY EXAMINER